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General Assembly
Security Council

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General Assembly
Tenth emergency special session
Agenda item 5
Illegal Israeli actions in Occupied East Jerusalem and the rest of the Occupied Palestinian Territory

Security Council
Fifty-eighth year

Identical letters dated 2 September 2003 from the Permanent Observer of Palestine to the United Nations addressed to the Secretary-General and the President of the Security Council

Yesterday, Israel, the occupying Power, committed yet another extrajudicial killing after launching its sixth missile attack in less than two weeks, targeting for assassination even more Palestinians in its relentless military campaign against the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem. Monday's attack, which was carried out by Israeli helicopter gunships, targeted a car travelling on a crowded street in Gaza City and killed one Palestinian man, Khathir Badawi Al-Husari, and wounded more than 30 other Palestinian civilians. This criminal act was preceded on Saturday by the extrajudicial killing of two other Palestinian men, Abdullah Ali Aqel and Farid Yussef Meit, also in Gaza. On that same day, the occupying forces also killed an eight-year-old Palestinian girl, Aya Mahmoud Fayyad, by tank fire in Khan Yunis. The killing of Palestinians continued today when Israeli occupying forces shot and killed a Palestinian man at a checkpoint near Jenin. Also today, an 11-year-old Palestinian girl died tragically of wounds sustained during an Israeli missile attack in Gaza City last week.

As the Palestinian casualties continue to mount as a result of such war crimes being committed by the occupying Power, Israeli officials continue adamantly to declare and reiterate their intentions to press on with the campaign of extrajudicial killings. Indeed, while the Israeli occupying forces persist in carrying out this brutal military campaign, using all means of excessive and indiscriminate force against the Palestinian people, the situation on the ground continues to devolve rapidly and dangerously. Such a deteriorating situation will clearly bring only more suffering to the Palestinian people under Israel's occupation, exacerbating the already deep humanitarian crisis and gravely diminishing any hopes and potential for peace efforts to succeed.

Urgent measures must be undertaken by the international community to bring an end to these Israeli crimes and violations of international law and international humanitarian law and to stem this downward spiral of developments in the Occupied

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Palestinian Territory. In this regard, the United Nations Security Council in particular, in upholding its duty to maintain international peace and security, should take action.

This letter is in follow-up to our previous 171 letters to you regarding the crisis in the Occupied Palestinian Territory, including East Jerusalem, since 28 September 2000. These letters, dated from 29 September 2000 (A/55/432-S/2000/921) to 29 August 2003 (A/ES-10/233-S/2003/848), constitute a basic record of the crimes committed by the Israeli occupying forces against the Palestinian people since September 2000. For all of these war crimes, State terrorism and systematic human rights violations committed against the Palestinian people, Israel, the occupying Power, must be held accountable and the perpetrators must be brought to justice.

Accordingly, in follow-up to the above-mentioned letters, it is my regret to inform you that, since my last letter, at least six Palestinians, including children, have been killed by the Israeli occupying forces, raising the total number of martyrs to 2,522 Palestinians. (The names of the martyrs that have been identified thus far are contained in the annex to the present letter.)

I would be grateful if you would arrange to have the text of the present letter and its annex distributed as a document of the tenth emergency special session of the General Assembly, under agenda item 5, and of the Security Council.

(*Signed*) Nasser **Al-Kidwa**
Ambassador
Permanent Observer of Palestine to the United Nations

Annex to the identical letters dated 2 September 2003 from the Permanent Observer of Palestine to the United Nations addressed to the Secretary-General and the President of the Security Council

Names of martyrs killed by the Israeli occupying forces in the Occupied Palestinian Territory, including Jerusalem*

Saturday, 30 August 2003 through Tuesday, 2 September 2003

Saturday, 30 August 2003

1. Abdullah Ali Aqel
2. Farid Yussef Meit
3. Aya Mahmoud Fayyad (8 years old)

Monday, 1 September 2003

1. Khathir Badawi Al-Husari
2. Sana Jamil Al-Da'our (11 years old)

Tuesday, 2 September 2003

Abdelqader Idhali

* The total number of Palestinian martyrs killed by the Israeli occupying forces since 28 September 2000 is 2,522.

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Security Council

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Letter dated 29 August 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 6 August 2002 (S/2002/904).

The Counter-Terrorism Committee has received the attached supplementary report from Samoa submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

03-48884 (E) 071003

Annex

Letter dated 22 August 2003 from the Permanent Representative of Samoa to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

On instructions from my Government, I have the honour to enclose herewith the further report by Samoa to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001) (see enclosure).

The Government of Samoa stands ready to provide any further information as may be requested by the Committee.

(*Signed*) Tuiloma Neroni **Slade**
Ambassador
Permanent Representative

Enclosure

Further Report by SAMOA by way of
RESPONSES TO COMMENTS and QUESTIONS OF THE
COUNTER-TERRORISM COMMITTEE
with respect to the report by SAMOA submitted
pursuant to paragraph 6 of Security Council resolution 1373 (2001)

Sub-paragraphs 1(a), (b) and (c):

- ***Provision of copies of the Prevention and Suppression of Terrorism Act 2002 and the Money Laundering Prevention Action 2000 to the CTC***

In April 2002, Samoa's Parliament enacted the *Prevention and Suppression of Terrorism Act 2002*. The Act is being implemented, though to date no prosecutions have been conducted in relation to offences provided for in the Act.

Copies of the *Prevention and Suppression of Terrorism Act 2002,* as well as the *Money Laundering Prevention Action 2000* have already been made available to the Committee for its information.

- ***Provision of a progress report on the establishment and work of the proposed financial intelligence unit***

Samoa's Financial Intelligence Unit (FIU) was established in 2002, and is located within the Money Laundering Prevention Authority set up pursuant to section 10 of the *Money Laundering Prevention Act 2000.* The staff of the FIU have received extensive training on intelligence gathering and analysis and take an active role in providing the Money Laundering Authority with the data, analysis and information necessary to conduct its affairs.

The FIU has responsibility for the following:

i. receiving of suspicious transaction reports from financial institutions;
ii. conveying such reports to the Attorney General and the Commissioner of Police if, having considered the reports, it considers there are reasonable grounds to suspect that a transaction involves proceeds of crime or that a money laundering offence is being, or has been or is about to be committed;
iii. the issue of instructions to any financial institution to take steps as may be appropriate to facilitate any investigation anticipated by the Money Laundering Prevention Authority;
iv. compilation of statistics and records, and provision of relevant information to law enforcement agencies during any financial investigation of suspicious transactions;
v. issue of regulations and guidelines for financial institutions on specific obligations as required under the Act; and
vi. monitoring of financial institutions compliance status with their obligations as required under the Act.

Future changes and further developments

Existing legislations are currently being reviewed to further strengthen the legal framework for the effective operation of the FIU in dealing with its stakeholders both locally and abroad as follows:

i. receiving information or reports provided by any law enforcement agency or any other information voluntarily provided in relation to any suspicious transaction, whether it relates to the offence of money laundering or the offence of financing terrorist activities;
ii. enter into an exchange of information agreement with an institution or agency of a foreign State or an international organisation established by governments of foreign States that has both the authority and duties similar to those of the FIU;
iii. examine records and make inquiries into the business affairs of any financial institution for the purpose of ensuring compliance with prevailing legislations or for purpose of carrying out investigations or analyses being undertaken by the FIU; and
iv. enforce compliance by directing and ensuring that all stakeholders comply with and adhere to their respective statutory obligations as required under existing legislation.

The Office of Attorney General, in conjunction with the Central Bank of Samoa, the Ministry of Police and the Division of Customs of the Ministry for Revenue, is currently preparing amendments to the *Money Laundering Prevention Act 2000* for purposes of strengthening and complementing other relevant legislations that are being drafted or developed, namely, the Proceeds of Crime Bill, the Mutual Assistance in Criminal Matters Bill and the Extradition Amendment Bill, in order to achieve a more effective and efficient legal framework for Samoa. Furthermore, such amendments would enhance Samoa's compliance with international standards as being promoted by the Financial Action Task Force on Money Laundering (FATF) and its 40 plus 8 recommendations.

Sub-paragraph 1(d):

- ***What laws and practical controls and surveillance measures exists to ensure that funds and other economic resources collected for religious, charitable or cultural purposes are not diverted for other purposes, particularly for financing terrorism?***

The *Money Laundering Prevention Act 2000* and the *Prevention and Suppression of Terrorism Act 2002* are the two principal legislative measures in place and aimed at deterring the use of funds and other economic resources for financing terrorism activity.

The Money Laundering Prevention Authority established in accordance with the *Money Laundering Prevention Act 2000* and administered by the Central Bank of Samoa has been operational since the enactment of the Act in 2000. The Authority is actively engaged in working with Samoan financial institutions to prevent funds being obtained from or used for criminal activities including the financing of terrorist acts. Complementing the close working relationship between the Authority and financial institutions in combating money laundering and the illegal use and movement of funds for criminal purposes is a number of other practical controls over these institutions. These controls seek to ensure that funds and other economic resources collected for

religious, charitable or cultural purposes are not diverted for other purposes, particularly for financing terrorism. These include the audit of procedures and policies of banks and other financial institutions to ensure compliance with their obligations under the *Money Laundering Prevention Act 2000*, the receipt, review and investigation of suspicious transaction reports and the periodic review of business transaction reports (as defined under the Act) retained by financial institutions.

In addition to the active role of the Money Laundering Prevention Authority, Samoa has established the Financial Intelligence Unit and is establishing, under the authority of the Ministry of the Prime Minister, an independent and permanent Transnational Crime Unit (TCU). The TCU is now operational and is staffed by personnel seconded from the Samoa Police Service, Immigration Division of the Ministry of the Prime Minister and Division of Customs. The Unit falls within the portfolio of the Prime Minister and will be responsible for undertaking surveillance operations, intelligence gathering and analysis and investigating crimes of a transnational nature including money laundering, terrorist financing and drug and people smuggling. Staff of the TCU have been identified and have been receiving intensive training in Fiji. Further intensive training is scheduled to take place in Australia later in 2003.

In connection with the practical measures identified above, the Immigration Division is establishing a computerized database for the retention of its records. This includes the electronic processing and storage of information of persons at the entry and exit ports and the introduction of new security technology to be incorporated in to Samoan passports to enable the electronic storage of data and minimizing the risk of fraudulent passports being created.

In addition to the above matters, where funds and other economic resources collected for religious, charitable or cultural purposes are diverted for other purposes, including the financing of terrorism, persons responsible may be prosecuted under the *Crimes Ordinance 1961* for theft (sections 85 – 88); obtaining by false pretence (section 89); receiving stolen property (section 90); conversion of vehicles or vessels, etc (section 91); and breach of trust (section 93). Furthermore, where funds and other economic resources are diverted for other purposes including terrorist financing, those responsible may be sued for recovery of that property or funds.

- ***In view of the efforts of the international community to stop the abuse of informal banking networks, please indicate how that problem is dealt with in Samoa***

With a relatively very small economy in the Pacific region, Samoa's financial system is comprised mainly of licensed financial institutions providing different types of financial services ranging from commercial banking, insurance, superannuation schemes, development banking, money transfers and changers, small sized money lenders and credit unions. The probability therefore of informal banking existing is either very negligible or none at all. Banks and other financial institutions are the main gatekeepers for the inflow and outflow of (foreign) funds, hence a thorough and proper system of monitoring customer information and activity is required in order to detect and prevent potential informal banking activities.

The Money Laundering Prevention Authority will however continue to monitor and pursue effective ways to ensure that all stakeholders adhere to their respective statutory obligations as required under existing legislation.

Sub-paragraph 2(a):

- ***Provision of copies of relevant provisions of the Crimes Ordinance 1961***

A copy of the *Crimes Ordinance 1961* has been made available to the Committee for its information. There are no special provisions in the *Crimes Ordinance* that deal specifically with supporting terrorist acts or with measures to suppress recruitments or eliminate the supply of material or assistance to terrorists. This is generally dealt with pursuant to the provisions of the *Prevention and Suppression of Terrorism Act 2002* of Samoa.

- ***Outline of the scope of the Crimes Ordinance 1961 in relation to activities occurring in Samoa that are not specifically of a terrorist nature but are linked to actual or potential acts of terrorism in another country***

By virtue of section 5 of the *Crimes Ordinance 1961*, the scope and application of the ordinance is very broad. Section 5 of the Ordinance provides as follows:

> "**Place of commission of offence** – *For the purpose of jurisdiction, where any act or omission forming part of any offence, or any event necessary to the completion of any offence, occurs in Samoa, the offence shall be deemed to be committed in Samoa, whether the person charged with the offence was in Samoa or not at the time of the act, omission, or event.*"

The effect of section 5 is to expand the application of *Crimes Ordinance 1961* to events not necessarily occurring within Samoa but where the act, omission, or any event necessary to complete the offence occurs within Samoa. Where this occurs, the person is deemed to have committed the offence in Samoa and is therefore subject to criminal prosecution.

The activities encompassed by the *Crimes Ordinance 1961* that occur in Samoa that are not specifically of a terrorist nature but may be linked to actual or potential acts of terrorism in another country and caught by the Crimes Ordinance 1961 could include the following:

- section 26 – accessory after the fact;
- sections 59, 61, 63, 64, 66 – provisions concerning murder;
- section 60 – the killing of a child;
- section 69 – conspiracy and inciting murder;
- sections 78, 79, 80 – assault;
- section 108 – the offence of uttering forged documents;
- section 113 – willful damage or destruction of property;
- section 114 – attempt to commit or procure an offence;
- section 115 – accessory after the fact to crime

Section 6 of the *Crimes Ordinance 1961* also confers extra-jurisdictional application of the Ordinance with respect to crimes on ships and aircraft.

Sub-paragraph 2(c):

- ***Please provide a list of the bilateral and multilateral treaties on mutual assistance in criminal matters and on extradition to which Samoa is party***

Samoa is party to the following multilateral treaties on mutual assistance in criminal matters:

i. Convention on Offences and Certain Other Acts Committed on Board Aircraft (1963) (Tokyo Convention);
ii. Convention for the Suppression of Unlawful Seizure of Aircraft (1970) (Hague Convention);
iii. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971) (Montreal Convention);
iv. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation (1988) (*supplementary* to the 1971 Montreal Convention);
v. Convention on the Marking of Plastic Explosives for the Purpose of Detection (1991); and
vi. International Convention for the Suppression of the Financing of Terrorism (1999).

Samoa is not party to any bilateral treaties on mutual assistance relating to either criminal matters or extradition. The *Extradition Act 1974* however sets out the statutory framework for extradition to occur between Samoa and Commonwealth countries. In the case of Commonwealth countries, section 3 of the *Extradition Act 1974* provides for the manner of designation and extradition to take place. For non-Commonwealth countries an extradition treaty would be required.

Sub-paragraph 2(e):

- ***Apart from the special provision to be made by the Prevention and Suppression of Terrorism Bill, what is the competence of the courts of Samoa to deal with criminal acts of each of the following kinds?***
  ~ an act committed outside Samoa by a person who is a citizen of, or habitually resident in Samoa, whether that person is currently present in Samoa or not; and
  ~ an act committed outside Samoa by a foreign national who is currently in Samoa?

Section 25 of the *Prevention and Suppression of Terrorism Act 2002* specifically deals with the two scenarios in this question, and both situations can be addressed by the Supreme Court of Samoa. Apart from the *Prevention and Suppression of Terrorism Act 2002* and subject to comments above concerning the *Crimes Ordinance 1961*, there are no other provisions elsewhere giving the Supreme Court authority to deal with extra-territorial acts.

Sub-paragraph 2(f):

- ***What is the legal timeframe within which a request for judicial assistance in criminal investigations or criminal proceedings relating to the financing or other support of terrorist acts is required to be met and how long, on average, does it actually take in practice to implement such a request in Samoa?***

Samoa treats all requests for judicial assistance in criminal investigations or criminal proceedings seriously. The measure of assistance however is dependent upon the quality and validity of information or supporting documents submitted by the requesting State. There is no legal timeframe for such requests to be met. Each case is treated or handled based on its own circumstances. Nonetheless, if supporting information provided in relation to a request is sound, Samoa's response is immediate as to, for instance, seizure of funds, detainment and prosecution of person or persons who committed or assisted in carrying out a terrorist act, pursuant to Part VII of the *Prevention and Suppression of Terrorism Act 2002*.

Sub-paragraph 2 (g):

- ***What measures have been taken to prevent the counterfeiting, forgery or fraudulent use of identity papers and travel documents and what provision exist for the punishment of persons who engage in such activities?***

The Immigration Division, together with the Ministry of Justice, are working on improving procedures already in place for issuance of identity papers and travel documents, for example, the development a new and computerized index system; and proper control and certification of birth certificates, passports, and certificates of identity. Furthermore, prosecutions may be initiated under section 13 of the *Permits and Passports Act 1978* or section 108 of the *Crimes Ordinance 1961* where any person is suspected to have engaged in the counterfeiting, forgery or fraudulent use of identification documentation.

- ***Visits to Samoa by yachts or private aircraft may give rise to issues under para.2(g) of the Resolution. How are such issues addressed by Samoa?***

Aircrafts or yachts visiting Samoa require prior approval or authorization from the Ministry of Transport and the Samoa Ports Authority to land or enter any port of entry into Samoa. The Customs Division and the Immigration Division are also on hand to inspect and process the arrival of persons into Samoa.

With respect to paragraph 2(g) of the Resolution, a National Border Management Committee was established in September 2002. The Committee is chaired by the CEO of the Ministry of the Prime Minister and has been specifically established in order to advise Government on national, regional and global security threats and the management and protection of Samoa's borders. The Committee also reviews border management and protection systems and advises Government on how these systems may be improved.

The Committee comprises the Attorney General, the Commissioner of Police, the Assistant Director of Immigration and the Heads of Government departments and statutory corporations together with representatives from the private sector. The

Committee meets on a monthly basis and provides a forum for confidential dialogue and exchange of information on security and border issues.

A Memorandum of Understanding relating to the exchange and security of information between the stake holders on the Committee has been drafted by the Office of the Attorney General and has been approved in principle by the parties. It is expected that the Memorandum of Understanding will be executed by the parties within the coming months.

The establishment of the Committee provides Government with an improved and responsive capacity to react to threats posed by terrorist and terrorist groups. This capacity will be further enhanced by the establishment of the Transnational Crime Unit.

Sub-paragraphs 3(a), (b) and (c):

- ***Is there an institutional mechanism for implementing sub-paragraphs 3(a), (b) and (c) of the Resolution?***

Samoa has taken active steps to formalize institutional mechanisms to implement sub-paragraphs 3(a), (b) and (c) of the resolution. This is demonstrated by the establishment of the National Border Management Committee and the Transnational Crime Unit referred to above.

In addition to the mechanisms above, the Commissioner of Police, the Attorney General, the CEO of the Ministry of Foreign Affairs and Trade and the CEO of the Ministry of the Prime Minister meet on a regular basis to discuss issues dealt with under these sub-paragraphs. All these officers and their Ministries have specific functions in this process, and specific links with other local, regional and international departments and agencies to facilitate the exchange of information, and to undertake specific functions to ensure that these matters are addressed.

Sub-paragraph 3(d):

- ***With respect to relevant international conventions and protocols relating to terrorism, what progress has Samoa made in:***

  i. Becoming a party to the instruments to which it is not yet a party

Samoa is not party to the following international conventions:

a) Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents (1973);
b) International Convention Against the Taking of Hostages (1979);
c) Convention on he Physical Protection of Nuclear Material (1980);
d) Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988);
e) Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the continental Shelf (1988);
f) International Convention for the Suppression of Terrorist Bombings (1997).

Relevant discussions between key Government ministries and partners will need to take place prior to submitting recommendations to Cabinet for Samoa to become a party to the aforementioned conventions.

ii. Enacting legislations, and making other necessary arrangements, to implement the instruments to which it has become a party?

Various Government ministries have been involved in incorporating into domestic legislation key instruments to which Samoa is party. An example of this is the *Prevention and Suppression of Terrorism Act 2002* which became law on 25 April 2002. The Act provides the domestic legislative basis upon which these instruments relate. Specifically the Act provides for criminal offences concerning:

- terrorist bombing;
- hostage-taking;
- attacks on internationally protected persons;
- attacks at airports and on aircraft;
- attacks on shipping;
- the financing of terrorism;
- mechanisms to seize terrorist funds and resources;
- a fast-track mechanism to arrest and extradite suspect foreign terrorists and escapees; and
- extra-territorial jurisdiction for Samoan courts to deal with these matters.

Sub-paragraph 3 (e):

- ***Have the crimes set forth in the relevant international conventions and protocols been included as extraditable offences in the bilateral treaties to which Samoa is party to?***

The *Prevention and Suppression of Terrorism Act 2002* provides a specific fast-track mechanism for the extradition of foreign terrorist suspects and escapees. This mechanism avoids the necessity of including such offences in any bilateral extradition treaty.

Sub-paragraph 3(g):

- ***Is it possible under the law of Samoa for requests for the extradition of alleged terrorist to be refused on political grounds?***

Yes. Section 24(3) (a) of the *Prevention and Suppression Terrorism Act 2002* provides for extradition to be refused on the grounds that the Supreme Court is satisfied:

> "That the offence of which that person is accused or was convicted is an offence of a political character... "

This is an existing feature of Samoa's extradition legislation which also features protections against prosecution based upon race, religion, ethnic identity, nationality or political opinions. This is in accordance with the duties of Samoa as a party to a number of human rights instruments, including the Universal Declaration of Human Rights.

Paragraph 4:

• ***Addressing concerns expressed in paragraph 4 of the Resolution***

Yes. The Office of Attorney General is currently preparing an amendment to the *Money Laundering Prevention Act 2000* to include the use of funds for the purpose of financing terrorist acts in the definition of money laundering. This will enable the existing anti-money laundering legislation and prevention mechanisms to be used to monitor the financial sector concerning the funding of terrorist acts.

Other matters:

• ***Organizational chart***

An organizational chart is being developed and the relevant Government ministries are in consultation on the appropriate features and the manner of its use and operation. The chart will have to be submitted to the Counter-Terrorism Committee when available.

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Letter dated 2 September 2003 from the Secretary-General addressed to the President of the Security Council

Pursuant to Security Council resolution 1244 (1999), I have the honour to convey the attached report on the international security presence in Kosovo covering the period from 1 to 31 July 2003 (see annex).

I should be grateful if you would bring it to the attention of the members of the Security Council.

(*Signed*) Kofi A. **Annan**

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Annex

Monthly report to the United Nations on the operations of the Kosovo Force

1. Over the reporting period (1-31 July 2003), the total strength of the Kosovo Force (KFOR) was 22,487, including 3,936 from non-NATO countries.

Security

2. The overall situation in Kosovo during July 2003 remained generally stable, although there were an increasing number of incidents from the middle of July, possibly owing, in part, to the Kosovo Albanian population's reaction to the Llap Zone trial sentences. At 25, the number of incidents of inter-ethnic violence reported over the month of July was stable (24 in June) but reported cases of arson (8) increased significantly. The primary target of intimidation was the Serbian population, most incidents (42.3 per cent) occurring in Pristina.

Llap Zone trial

3. On 16 July, four Kosovo Albanians belonging to the former Kosovo Liberation Army (KLA) were convicted of war crimes by a court in Pristina composed of a panel of international judges. This was the first time that former KLA members were convicted of such crimes in Kosovo. All four individuals appealed to the Kosovo Supreme Court, which is expected to review the cases by the end of August.

4. Members of the Kosovo Assembly criticized the sentences; the Kosovo Protection Corps issued a press release expressing shock and claiming that the charges were absurd and an insult to all Kosovars; approximately 1,000 people took part in a protest in Podujevo in support of the convicted war criminals; and three grenades (only one of which exploded) were later thrown at the Podujevo police station, causing no injuries.

Explosions in Pristina, Lipljan and Mitrovica

5. Four days later, on 20 July, a district courthouse was hit by a rocket and an UNMIK police station was hit by a hand grenade. Later, a hand grenade attack was carried out in Lipljan, south of Pristina. There were no reported casualties and damage was minor. On 24 July, two hand grenades were thrown at the UNMIK police station in south Mitrovica. Two UNMIK police cars and one Kosovo Police Service vehicle were seriously damaged. Three male Kosovo Albanians (2 adults and one youth) were seriously injured and taken to the Moroccan military hospital. One adult later died from his injuries. Following the incident in Mitrovica, on 25 July one hand grenade exploded in Pristina, seriously damaging an UNMIK vehicle and causing no injuries. In all these cases, investigations continue.

The case of Shefket Musliu

6. On 7 July, Shefket Musliu was transferred from the Bondsteel Detention Facility into the custody of UNMIK police. He had been detained on 22 April 2003 for posing a threat to a safe and secure environment and arraigned on 9 July on charges of intimidation and racketeering. With no trial date fixed, he received a 30-

day detention order while trial preparations were initiated. Neither the arraignment nor the trial is public, the aim being to protect witnesses and limit press coverage.

7. The Deputy Prime Minister of Serbia, Nebojsa Covic, continued to request Musliu's transfer to Serbian authorities to face charges, but the acting Special Representative of the Secretary-General, Charles Brayshaw, rejected the request.

Minority returns

8. On 2 July, the Provisional Institutions of Self-Government in Kosovo issued a joint declaration endorsing minority returns, which was signed by the President of Kosovo, the Prime Minister, the Assembly President, the leader of the Democratic Party of Kosovo (PDK), the leader of the Alliance for the Future of Kosovo (AAK), the Commander of the Kosovo Protection Corps and representatives of the Turkish and Bosniac communities.

9. On 15 July, after that declaration, 24 Kosovo Serb families returned to their homes in Belo-Polje.

10. On 16 July, a group of Kosovo Albanian political parties and others released an open letter calling on Kosovo Albanians not to sell their homes in the northern part of Mitrovica and northern Kosovo to Kosovo Serbs or to the Government of Serbia. Among the signatories were members of the Democratic League of Kosovo (LDK), PDK, AAK, the Party of Justice, the Kosova Democratic Turkish Party, the Muslim community, and representatives of the Kosovo Albanians in Mitrovica North and of Kosovo Albanian non-governmental organizations.

Attacks against KFOR and KFOR operational activities

11. During the reporting period, there were three direct attacks against KFOR cars with locals throwing stones and smashing car windows.

12. During the period under review, KFOR units seized 68 assorted weapons, 20 rockets or missiles, one anti-tank weapon, 27 grenades or mines and 4,697 rounds of ammunition. KFOR increased its presence operations to reduce tension among Kosovo Serb citizens and near the former Yugoslav Republic of Macedonia[a] and Presevo Valley border areas.

Compliance by the forces of Serbian and Montenegro and the Ministry of Internal Affairs Special Police

13. The forces of Serbia and Montenegro and of the Ministry of Internal Affairs remained compliant with the terms and conditions of the Military Technical Agreement.

Kosovo Protection Corps

14. During the period under review, five roll-calls were conducted on short notice, involving 33 KPC units. The results continue to show a reduction in absenteeism — 0.47 per cent — but the number of persons on leave is unacceptably high. At 61.5 per cent, the Corps does not currently meet the minimum required presence.

[a] Turkey recognizes the Republic of Macedonia with its constitutional name.

15. Fifteen cases of non-compliance were reported during July 2003; 56 cases remain open, 41 are due to be closed and three remain open pending further information.

Conclusion

16. The general security situation in Kosovo, while stable, has been less secure since the middle of July 2003.

17. The threat towards UNMIK is considered medium but no change in UNMIK operations is foreseen. Sections of the population do not accept the measures launched against former KLA members. Some isolated confrontations are expected to continue but are unlikely to have a significant impact on overall public order.

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Letter dated 3 September 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 21 May 2003 (S/2003/590).

The Counter-Terrorism Committee has received the attached third report from Turkey submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Note verbale dated 25 August 2003 from the Permanent Mission of Turkey to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Mission of Turkey to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to the Security Council resolution 1373 (2001) concerning counter-terrorism, and with reference to the letter of 9 May 2003 from the Chairman of the Committee, has the honour to submit herewith the supplementary report of Turkey, which provides information on issues raised by the Counter-Terrorism Committee (see enclosure).*

* Annexes to the enclosure are on file with the Secretariat and are available for consultation.

Enclosure

SUPPLEMENTARY INFORMATION BY THE REPUBLIC OF TURKEY ON MEASURES TAKEN AGAINST TERRORISM (IN RESPONSE TO THE REQUEST BY THE COUNTER-TERRORISM COMMITTEE (CTC) ON 9 MAY 2003)

❖ **Turkish Law on Fight Against Terrorism**

An unofficial translation of the Turkish Law on Fight Against Terrorism (LFAT Nr: 3713) is attached herewith.

❖ **Implementation of subparagraph 1(c) of UNSCR 1373 by Turkey**

As it has been indicated in our previous report to the Security Council in response to UNSCR 1455 (2003) in April 2003, according to the Turkish legislation in force, there needs to be strong and sufficient evidence or indication to start an investigation against persons and institutions that are suspected to be violating financial laws.

There are several legal instruments that can be invoked for asset freezing depending on the nature of specific cases. These can be briefly listed as follows:

- Law Nr: 213 on Tax Regulations (In cases of tax evasions.)
- Law Nr: 1918 on Prevention and Investigation of Smuggling (In cases of illegal exportation and importation of goods.)
- Law Nr: 4208 on Prevention of Money Laundering (In cases related to money laundering. "Money laundering" is defined as a criminal offence according to the provisions of this law. If dirty money is derived from offences of terrorism, or if the offence is committed with the aim of ensuring source for crimes of terrorism, the penalty of money laundering shall be aggravated.)
- Law Nr: 4422 on the Prevention of Benefit Oriented Criminal Organizations (In cases when a criminal organization acquires assets through violence, these assets may be confiscated.)
- Law Nr: 3713 on Fight Against Terrorism (LFAT) (According to the provisions of this law, the activities of associations, foundations and unions which are found to have lent support to terrorist movements shall be prohibited. Such organizations shall be dissolved by the decision of the relevant court. All assets of such organizations shall be confiscated.)

Among these instruments, asset freezing is regulated primarily by Article 6 of the Law Nr: 4422 on the Prevention of Benefit Oriented Criminal Organizations. According to provisions of this article whose full translation has already been included in our report on 6 August 2002, only relevant courts, depending on strong and incriminating evidence can decide to freeze the assets of suspect persons and organizations. In the absence of such evidence, asset freezing demands of the Financial Crimes Investigation Board (MASAK) and the Public Prosecutors, which are legally designated authorities to file such lawsuits, will be rejected.

Thus it is incumbent upon the Public Prosecutors and the Financial Crimes Investigation Board (MASAK) to support their indictment with sufficient evidence for opening a strong case before relevant

courts for asset freezing. Since each case will differ from the other, it is hard to predict the timeframe required for concluding an investigation that could lead to asset freezing.

As it has been outlined in our previous report to the Security Council in response to UNSCR 1455 (2003), the list issued by the Sanctions Committee (UNSCR 1267) lacks detailed information or evidence that would be required by the Turkish courts for freezing the assets of persons, institutions and companies that are included in it. For overcoming this difficulty, the Government of Turkey has decided since December 2001 to promulgate decrees that include the names which are issued by the Sanctions Committee (UNSCR 1276) for asset freezing. These decrees are updated as necessary according to the changes in the Sanctions Committee list. However, it would be of vital help for the Turkish investigating bodies if the designating authorities would provide detailed information as to how these persons, institutions and firms, many of which do not have any records in Turkey, have gotten involved in terrorism, as well as information about their methods of supplying financial support to terrorism.

❖ **Action initiated by MASAK (Financial Crimes Investigation Board) as result of receiving reports of suspicious transactions**

After the terrorist attacks that took place on September 11, 2001 in the USA, MASAK has given due importance to the matter of terrorist financing. One of the measures taken by MASAK for preventing terrorist financing has been to issue Communiqué Nr:3.

In the said Communiqué, a new suspicious transaction type has been added to the already existing 19 types. According to the new type, if liable parties such as banks and private financial institutions have reasonable ground to suspect that certain funds could be linked or related to terrorism or terrorist acts or used for the purpose of realizing such activities, they are obliged to report the concerned transaction to MASAK.

In such an eventuality the liable party will fill a uniform "Suspicious Transaction Reporting Form" (STRF) regardless of the amount of the money transaction that is found suspicious. The nature of the suspicious transaction detected shall be shown by fixing an (x) mark on the STRF that is appropriate among the 20 suspicious transactions. If the transaction does not correspond the 20 types listed in the STRF "Other Situations" numbered as 21 shall be marked with a additional information. After the STRF is completed, it shall be signed by two authorized representatives of the liable party and sent to MASAK within ten days.

The Suspicious Transaction Reporting Forms (STRF), related to money laundering and terrorist financing will be evaluated with priority by MASAK. If the information included in the STRF is found appropriate by MASAK for further investigation and eventually for prosecution, the case will be forwarded to the Public Prosecutor. If the liable party acquires new information or clue concerning the suspicious transaction reported, an additional STRF will be filled and sent to MASAK as an annex of initial report.

If the liable party fails to report the suspicious transactions within the procedures set forth in the MASAK Communiqué, the responsible persons will be prosecuted, which may result in imprisonment ranging from six to twelve months and heavy fining ranging from twelve million to one hundred and twenty million Turkish Liras according to law.

❖ **Turkish legislation that regulate the collection of charitable donations and fund raising by organizations and individuals**

Turkish Law Nr. 2860 on the "Collection of Charitable Donations" regulates all kinds of fund raising by organizations, associations and individuals. According to the provisions of Article 3 of this law, individuals, associations, organizations, foundations and written media are free to collect charitable donations provided that they serve public benefit or aim to help people in need or support public services. However, according to the provisions of Article 7 of the said law, collection of charitable donations or fund raising by individuals and associations and others are subject to the permission of the Ministry of Interior, Province Governorships or District Governerships depending on the locations where they are executed. These above mentioned authorities are required to give their responses to the applying party for permission by no later than two months based on a thorough research as to the aims, conduct and destination of the charitable donations wanted to be collected.

According to the provisions of Article 16, subparagraph 1 and 2 of the same law, the authorizing Office for charitable donation collection is required to scrutinize whether the funds collected will be used in accordance with the declared aim or not. In the case of a discrepancy with the practice and the declared aim, the police will intervene and all kinds of fund raising activities of the concerned party will immediately be stopped. Those responsible for violating the law will be prosecuted.

It will be easily deduced from the above information that necessary means and mechanisms are in place in the Turkish legislation for preventing any individual or organization to raise and channel funds for terrorist aims.

❖ **Turkish regulations pertaining to the manufacture, sale, possession, storage, transport, import and export of explosives**

Turkey is party to the Non-Proliferation Treaty, the Comprehensive Nuclear Test Ban Treaty, the Chemical Weapons Convention and the Biological Weapons Convention. Turkey is also member of the Wassenaar Arrangement, the Missile Technology Control Regime, the Zangger Committee, the Nuclear Suppliers Group and the Australian Group.

Under Turkish Law Nr.3763 on the "Control of Private Industrial Enterprises Producing War Weapons, Vehicles, Equipment and Ammunition" the production, sale, possession, storage, transport, import and export of arms and explosives and related material of all types are under the strict control of the Ministry of National Defence (MND).

A list of material whose production, sale, transfer etc. is subject to the control of the MND under Law Nr. 3763 is issued every year in the Official Gazette which includes inter alia, all kinds of explosives and devices that can be utilized to fire them.

As a result of the meticulous control system in place provided by its legislation, Turkey strictly abides by all UN resolutions as well as international agreements that regulate the production, sale, storage, possession, transfer, import and export of dangerous material including explosives.

❖ **Relevant legal provisions aimed at preventing the financing, planning, facilitation or commission of terrorist acts directed from Turkey at other States**

As a country which has suffered severely for many years from terrorism, Turkey is determined to eliminate this evil. Due to its determination to fight terrorism, Turkey has a robust anti-terrorism law (Law Nr: 3713 on Fight Against Terrorism – LFAT) which dates back much before the vicious 11 September attacks. Turkey is party to all UN Conventions for fighting terrorism. In addition to these, it has signed more than 40 multilateral and bilateral international agreements with various countries for combating terrorism. Thus Turkey is determined and well placed not to let any terrorist activity on its soil regardless whether they are directed to Turkey itself or a third country.

According to Article 90 of the Turkish Constitution, international agreements and conventions which are signed and endorsed by Turkey in accordance with the legal procedures, acquire the force of domestic law. However, the activation of relevant legislation against terrorist crimes necessitate their actual perpetration which can only be determined by solid evidence.

There is also an ongoing effort by the Ministry of Justice in collaboration with relevant Ministries and other government authorities to amend Law Nr: 3713 (LFAT) so as to harmonize it fully with UNSCR 1373 and to establish a specific "terrorist financing" crime in line with the UN Convention on the Suppression of Financing of Terrorism.

❖ **Offences under Turkish legislation which are also provided for under the relevant universal conventions**

As it has been mentioned above, according to Article 90 of the Turkish Constitution, international agreements which are signed and endorsed by Turkey in accordance with the corresponding legal procedures acquire the force of domestic law. Among others, Turkey is party to all 12 UN Conventions on fighting terrorism as well as to the European Convention on Suppression of Terrorism.

The offences and felonies which are provided for under the above mentioned global and international legal instruments are primarily covered by the below listed Turkish legislation.

- Turkish Penal Code, Nr: 765
- The Law on Fight Against Terrorism, Nr: 3713
- The Law on Prevention of Money Laundering, Nr: 4208
- The Law on Fight Against Benefit-Oriented Criminal Organizations, Nr: 4422
- The Law on Establishment and Trial Procedures of State Security Courts, Nr: 2845
- State of Emergency Law, Nr: 2935
- The Law on Control of Narcotic Materials, Nr: 2313
- Amending Law on the Decree in force of Law on the Organization and Competences of the Ministry of Finance, Nr:178
- The Law on Firearms and Knives and Other Similar Tools, Nr: 6136
- The Law on Prevention and Prosecution of Smuggling, Nr: 1918
- The Law on Control of Private Industrial Enterprises Producing War Weapons, Vehicles, Equipment and Ammunition, Nr: 3763
- The Law on the Collection of Charitable Donations, Nr: 2860

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Question of Cyprus

Security Council
Fifty-eighth year

Letter dated 3 September 2003 from the Chargé d'affaires a.i. of the Permanent Mission of Turkey to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith a letter dated 2 September 2003 addressed to you by Mr. Mehmet Dana, Chargé d'affaires a.i. and Deputy Representative of the Turkish Republic of Northern Cyprus (see annex).

I should be grateful if the text of the present letter and its annex could be circulated as a document of the General Assembly, under item 31 of the provisional agenda and of the Security Council.

(*Signed*) Altay **Cengizer**
Deputy Permanent Representative
Chargé d'affaires a.i.

* A/58/150.

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Annex to the letter dated 3 September 2003 from the Chargé d'affaires a.i. of the Permanent Mission of Turkey to the United Nations addressed to the Secretary-General

Upon instructions from my Government, I have the honour to refer to the letter dated 20 August 2003 (A/57/859/-S/2003/828) addressed to you by the Greek Cypriot representative at the United Nations, which contains allegations of violations of the "airspace of the Republic" and "of the flight information region of Nicosia", and to bring to your kind attention the following:

In response to such false and pretentious allegations, I wish, once again, to reiterate that flights within the sovereign airspace of the Turkish Republic of Northern Cyprus take place with the full knowledge and consent of the appropriate authorities of the State, over which the Greek Cypriot administration in South Cyprus has no jurisdiction or right of say whatsoever. Furthermore, it should be underlined that allegations of so-called violations of the flight information region or violations of air traffic regulations are invalid, as the civil aviation authority of the Turkish Republic of Northern Cyprus is the only competent authority to provide air traffic and aeronautical information services.

As stated in our previous letters, such allegations are based on the false and illegitimate claim that the sovereignty of the Greek Cypriot administration extends over the whole island, including the territory of the Turkish Republic of Northern Cyprus. This claim by the Greek Cypriot side is divorced from the existing realities in Cyprus, namely, the existence of two independent States, each exercising sovereignty and jurisdiction within its respective territory on the island.

Attempts by the Greek Cypriot representatives, through often repeated false claims, to confer legitimacy upon an illegal administration will be futile for as long as the Turkish Cypriot people refuse to bow to its writs. What would indeed be conducive to a better climate on the island would be for the Greek Cypriot side to stop arrogating rights and responsibilities it does not legally have and to cease all hostilities, including embargoes, towards the Turkish Cypriot people.

I should be grateful if the text of the present letter could be circulated as a document of the General Assembly, under item 31 of the provisional agenda, and of the Security Council.

(*Signed*) Mehmet **Dana**
Chargé d'affaires a.i.

United Nations S/2003/858

Security Council

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Progress report of the Secretary-General on Ethiopia and Eritrea

I. Introduction

1. The present report is submitted pursuant to paragraph 12 of Security Council resolution 1320 (2000) of 15 September 2000 and provides an update on developments in the peace process since my report dated 23 June 2003 (S/2003/665). The report also describes the work and activities of the United Nations Mission in Ethiopia and Eritrea (UNMEE), including the assistance provided to the Eritrea-Ethiopia Boundary Commission, as mandated by relevant Security Council resolutions. The current mandate of UNMEE expires on 15 September 2003.

II. Status of the Temporary Security Zone and adjacent areas

2. The situation in the Temporary Security Zone and the adjacent areas remained generally calm during the period under review, and the opposing forces have reduced their training and related activities at forward locations on both sides of the Zone. UNMEE continued to closely monitor the positions of the Ethiopian Armed Forces and the Eritrean Defence Forces, as well as to observe the activities of the militia and the police in and around the Zone. Cooperation with all these entities remained generally good.

3. While the overall situation in the Zone has been characterized by relative stability, the recent increase in local incidents is a source of concern. Since my last report, the number of Ethiopian herdsmen and livestock entering the Zone on a daily basis in some areas in Sector Centre has increased even more. On a number of occasions, Ethiopian militia fired shots from their territory to signal to the herdsmen the presence of Eritrean militia in the vicinity. During the month of August, several more serious incidents occurred in the Aromo area of the Zone (Sector Centre). On two separate occasions on 5 August, Ethiopian militia pointed their weapons at UNMEE patrols in response to advice not to enter the Zone. On 9, 10 and 12 August, a total of 102 personnel, most of them in the Ethiopian Armed Forces uniforms, entered the Zone in the Drum Drum Stream area in the same sector, refusing to leave despite repeated protests by UNMEE at the sector level. Subsequently, UNMEE lodged strong protests with the Ethiopian authorities, including with the Ministries of Defence and Foreign Affairs. In response, senior

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Ethiopian officials expressed regret and assured the Mission that such incidents would not recur. Those incursions encroach upon the integrity of the Zone, and thus constitute a violation of the Agreement on Cessation of Hostilities (S/2000/601, annex). If repeated, incidents of this type could lead to further tension and potential conflict among the people in the border area.

4. In Sector West, there was an increase in incidents of rustling of livestock across the southern boundary of the Temporary Security Zone. UNMEE has made determined efforts to discourage such activities and to resolve disputes at the sector level, including by facilitating the exchange of cattle across the southern boundary of the Zone. In this respect, the area around Humera Bridge in Sector West has been particularly sensitive, owing to past shooting incidents. In order to effectively monitor the area, UNMEE has constructed two watchtowers, one at Om Hajer on the Eritrean side and another at Humera on the Ethiopian side. Both parties have accepted the Mission's proposal in this regard. In addition, UNMEE continues to update and refine its patrolling and monitoring activities throughout the Zone and the adjacent areas, in order to have the best possible grasp of events and developments on the ground.

5. As part of its efforts to promote confidence between the two sides, UNMEE, in close cooperation with the parties and with the assistance of the International Committee of the Red Cross (ICRC), carried out "Operation Rest in Peace", recovering and repatriating mortal remains of fallen soldiers recently discovered in the former battlefields of Bala and Sabalita in Sector East. The operation culminated in the handover on 25 July of 220 bodies to the Ethiopian military authorities at Bure in a formal and solemn ceremony attended by my Special Representative, Legwaila Joseph Legwaila, and the Force Commander of UNMEE.

Freedom of movement

6. The two parties continue to impose restrictions on the Mission's freedom of movement in the Temporary Security Zone and the adjacent areas, particularly in Sector Centre. As a further obstacle to the effectiveness of UNMEE patrols, restrictions have occasionally been placed on the movement of their local language assistants. All such restrictions on freedom of movement have been brought to the attention of the relevant authorities in both countries, who have reiterated their commitment to ensure the unrestricted movement of UNMEE personnel.

7. Regrettably, there has been no improvement with regard to the difficulties, mentioned in my last reports, experienced by UNMEE staff entering and exiting Ethiopia and Eritrea at the airports in the two capitals. In addition to the visa requirements for UNMEE personnel, which are in contravention of the model status-of-forces agreement, the Government of Eritrea has recently decided that prior approval is required for non-Mission passengers arriving in Eritrea on UNMEE carriers, despite the fact that they have been granted Eritrean visas. The new measures make it unnecessarily difficult for the Mission's partners, including representatives of the guarantors and witnesses of the Algiers Agreements, as well as United Nations staff, to travel between the two countries, thus affecting their efforts in support of the peace process. My Special Representative has strongly objected to the decision of the Government of Eritrea.

8. I also regret to report the parties' continued failure to overcome their differences with regard to a direct high-altitude route for UNMEE flights between

Addis Ababa and Asmara. The longer and more complicated flights have serious security implications for the Mission's staff, and have so far resulted in additional costs totalling over US$ 2.6 million. At this advanced stage of the peace process, I once again appeal to the parties to reconsider their positions on this important issue, and I would welcome any support from Member States, which would assist the parties to take the action required to eliminate this needless, costly and arbitrary requirement.

Military Coordination Commission

9. The Military Coordination Commission held its seventeenth and eighteenth meetings on 16 June and 30 July, respectively, in Nairobi. Matters discussed during the meetings included demining in support of demarcation; the recovery and repatriation of mortal remains in Sector East; demobilization and restructuring of the armed forces of the two countries; the schedule of the order of activities recently issued by the Boundary Commission, as well as security of the Commission's contractors and other demarcation-related issues. Unfortunately UNMEE efforts at making the parties agree to hold future meetings of the Commission alternately in the two capitals have not borne fruit. The nineteenth meeting of the Commission is therefore scheduled for 17 September in Nairobi.

Status of the Mission and related issues

10. As at 29 August, the total strength of the UNMEE military component stood at 4,088 of the authorized strength of 4,200. This comprised 3,762 troops, 111 headquarters staff officers and 215 military observers (see annex II).

11. My Special Representative continues to protest against the Government of Eritrea's imposition of national service obligations on local staff members, and the restrictions imposed on UNMEE recruitment of local staff. In a letter dated 3 June 2003 to the Permanent Representative of Eritrea to the United Nations, the Secretariat has clarified the legal regime applicable to the appointment and status of locally recruited staff, and explained that Eritrea is under an international obligation not to interfere with the recruitment and performance of such personnel. Nevertheless, the Eritrean authorities continue to maintain their position that local staff must discharge their national service obligations, and some Eritreans working for UNMEE have been detained. Such treatment of local staff is obviously unacceptable. On a related issue, I would like to renew my appeal to the Government of Eritrea, consistent with repeated requests by the Security Council, to sign the status-of-forces agreement with the United Nations. Meanwhile, the model status-of-forces agreement continues to be in effect.

III. Boundary Commission and Claims Commission

Boundary Commission

12. During this reporting period, the Boundary Commission held an internal meeting in New York on 10 and 11 August, discussing technical issues relating to the demarcation of the border, including demarcation instructions for Sectors West and Centre. My Special Representative was invited to attend part of the meeting, in order to brief the Commission on the efforts of UNMEE to provide support for demarcation. He also discussed means and modalities of monitoring the parties'

fulfilment of their responsibilities to provide security for the Commission's field staff and contractors, in accordance with the relevant Security Council resolutions. Meanwhile, additional field work in Sector East has enabled the Commission to prepare marked maps, showing the line and proposed sites for the boundary pillars in that sector. The maps were sent to the parties for comments on 21 August. Additional information on the recent work of the Boundary Commission and its plans for demarcation, provided by its President, is contained in annex I.

13. In fulfilment of its adjusted mandate under resolution 1430 (2002), UNMEE has continued to provide administrative and logistical support to the Boundary Commission, as well as to undertake mine clearance in key areas in support of demarcation. In view of the Commission's schedule of the order of activities ahead as at 16 July 2003 (S/2003/665/Add.1), UNMEE has further refined its work plan, and has intensified its demining activities in the border areas, including access routes to possible boundary pillar sites. However, finalization of these plans continues to be dependent on receipt from the Boundary Commission of complete information regarding the exact locations of pillar sites. While the locations of pillar sites in Sector East have been provisionally established, those in Sectors West and Centre remain undetermined.

14. As I have stated in my previous reports, the costs related to civilian demining and demarcation contractors and the provision of administrative and logistical support to the field offices of the Boundary Commission are being funded from the United Nations Trust Fund for the Delimitation and Demarcation of the Border. Voluntary contributions and pledges to the Trust Fund currently total some $10.4 million. In my last report it was indicated that at least an additional $4.1 million would be required to complete the demarcation of the whole border. Of this, $2 million is urgently needed to award contracts so that demarcation can start in Sector East as scheduled.

Claims Commission

15. The first awards of the Eritrea-Ethiopia Claims Commission, established pursuant to article 5 of the Algiers Peace Agreement of 12 December 2000, were issued on 1 July 2003. The awards concerned the treatment of prisoners of war by Ethiopia and Eritrea during the 1998-2000 conflict. While the Commission noted its belief that the two parties were committed to the most fundamental principles bearing on prisoners of war, it made 12 findings of liability for violation of international law against Eritrea and 8 findings against Ethiopia. The most serious issues of liability against Ethiopia were the failure to provide a proper diet and the delay in repatriation. The most serious issues of liability against Eritrea concerned the refusal to allow ICRC to visit prisoner-of-war camps between May 1998 and August 2000, failing to protect Ethiopian prisoners of war from being killed at capture and permitting pervasive and continuous physical and mental abuse.

IV. Mine action

16. While progress in mine clearing continues to be made, landmines and unexploded ordnance continue to threaten the lives and hamper the work of the population of both countries, as well as United Nations staff and humanitarian personnel operating on the ground. From the beginning of June to mid-August, 14

incidents involving mines and unexploded ordnance occurred in Sectors West and Centre, in which two civilians were killed and 17 injured. Investigations were conducted, and the preliminary reports of the findings were compiled and distributed to the relevant parties. The Mission's investigations indicate that some of the mines in Sector West were newly planted by unknown perpetrators. In view of the recent spate of incidents, the UNMEE Mine Action Coordination Centre has developed an integrated Mission response to deal with the increasing number of incidents, and a revised mine and unexploded ordnance threat assessment was issued at the end of July 2003. From the beginning of June to 10 August, UNMEE deminers destroyed 62 mines and 821 pieces of unexploded ordnance, and cleared approximately 2.4 million square metres of land and 282.5 kilometres of road. Route verification and road clearance for Sector West were completed in mid-July 2003.

V. Humanitarian developments

17. The drought in Ethiopia and Eritrea remains a major concern for the United Nations country teams in the two countries; more than 13.2 million people in Ethiopia and 2 million in Eritrea are in need of relief assistance. Because of the severity and pervasiveness of this year's drought in both countries, malnutrition leaves increasing numbers of people, particularly children and pregnant women, vulnerable to disease, sickness and death. Furthermore, vulnerability to HIV infection and the aggravation of existing conditions of those with HIV/AIDS are now recognized side-effects of humanitarian crises such as the current one in the Horn of Africa. If inadequate public health services and shortages of trained staff are factored into the situation, the impact of this year's drought will be felt for many years to come. It is therefore encouraging to note that both Ethiopia and Eritrea are now fully engaged in developing longer-term strategies to deal with the problems of recurring drought and poverty. I again urge donors to continue supporting relief assistance programmes, as well as longer-term strategies and related initiatives in both countries.

18. In view of the seriousness of the situation, I appointed Martti Ahtisaari as my Special Envoy for the Humanitarian Crisis in the Horn of Africa in June 2003. Following the visit earlier that month of the United Nations Deputy Emergency Relief Coordinator, Carolyn McAskie, my Special Envoy made his first visit to the region in July and met with the leaders of both Ethiopia and Eritrea, as well as with senior Government officials, and representatives from the donor community and United Nations agencies. Upon his return, he expressed his pleasure at the high level of commitment to the relief efforts on the part of the two Governments and United Nations partners. He was deeply concerned, however, that, while pledges for food and non-food items in Ethiopia were good, food and non-food aid pledges for Eritrea were still well short of the target. I urge all donors to carefully review the recently released Eritrea 2003 Consolidated Appeal Process mid-year review document and the addendum to the joint Government-United Nations appeal for Ethiopia, and contribute generously to the appeals of both countries.

Quick-impact projects

19. Utilizing funds from the assessed budget as well as donations from the Governments of Ireland, the Netherlands and Norway, UNMEE and its implementing partners have completed a total of 77 quick-impact projects in the

areas of water, education and health and sanitation, and 31 additional projects have been approved. As the effects of the drought and the conflict continue to be felt by those living in the border areas, quick-impact projects play an important role in improving the lives of people in those communities. The projects are also very helpful in promoting good relations between UNMEE personnel and the population in whose midst they work and live. I therefore hope that donors will continue to support the Trust Fund with additional contributions.

HIV/AIDS

20. UNMEE continued its efforts to combat HIV/AIDS, and the thirteenth "training-of-trainers" course was held in July. Recently inducted staff of the UNMEE Mine Action Coordination Centre, as well as personnel of newly rotated contingents, benefited in particular from being trained together with members of an association of people living with HIV/AIDS in Eritrea. In an effort to reach out to a wider audience, some of the local population have received awareness training. In addition, HIV/AIDS awareness was raised through briefings to some 900 students and staff of schools in the Mission area.

VI. Human rights

21. On 6 August, my Special Representative wrote to the Ethiopian authorities requesting access for UNMEE to refugee camps in areas adjacent to the Temporary Security Zone, and specifically to the camp near Shiraro where some 5,600 Eritrean refugees and asylum-seekers are housed. So far, UNMEE has been prevented from visiting the camp, which includes some 3,500 ethnic Kunama people who left Gash Barka after Ethiopian forces withdrew from the region. The Office of the United Nations High Commissioner for Refugees is currently holding discussions with the Eritrean and Ethiopian authorities on the voluntary return of the Kunama population.

22. On 22 August, a total of 213 Ethiopian and 6 Eritrean civilians were repatriated to their respective countries under the auspices of ICRC in two simultaneous operations across the Mereb River in Sector Centre.

23. The needs of separated, displaced and refugee children on both sides of the conflict require further attention. Of particular concern are issues relating to juvenile justice, including the arbitrary detention of children. An Eritrean minor held in custody since the end of March 2003, after he illegally crossed into Ethiopia, was reunited with his family on 25 June, with the assistance of UNMEE. Three more Eritrean minors detained under similar circumstances were repatriated on 22 August with ICRC assistance and reunited with their families.

24. The Mission's presence in the region serves to deter human rights violations and to promote and monitor the implementation of the international norms and standards for the protection of the rights and well-being of civilians, including children. However, the Mission continues to face difficulties in gaining access to Ethiopian civilians arrested by Eritrean security officials within the Temporary Security Zone in Sector East. The whereabouts of four Afar men, whose arrest on 25 June was witnessed by peacekeepers, remains unknown.

VII. Public information

25. UNMEE continues to disseminate information about the peace process and the work of the Mission through a variety of means, including its radio programmes, which are transmitted over Eritrea's airwaves, and reach listeners in most of Eritrea and in parts of Ethiopia by short wave. A great deal of local interest has been expressed in two documentaries, "First steps to peace" and the more recent "Next steps to peace", produced by UNMEE.

26. In my last progress report, I highlighted the value of the four UNMEE outreach centres, established primarily to provide the public of the two countries with credible and easily accessible information on UNMEE activities in support of the peace process. The centres in Ethiopia, located in Addis Ababa and in Mekelle, continue to attract an increasing number of visitors. I regret to report, however, that the centres in Eritrea are facing difficulties. Beginning on 17 June, Eritrean authorities stationed an armed, uniformed Eritrean Defence Force guard at the entrance of the outreach centre at Barentu, in Sector West, checking identification cards and often preventing Eritrean visitors from entering the premises. On 10 July, the armed guard was replaced by an unarmed Eritrean Defence Force military policeman in civilian clothes. On 22 July, two unarmed policemen were placed outside the Asmara outreach centre. In response to repeated démarches by my Special Representative and his staff, the Eritrean authorities have cited their obligation to "protect Eritrean children" from certain information. The matter has also been raised with the Permanent Representative of Eritrea to the United Nations. For the time being, both outreach centres in Eritrea remain open, but if the Eritrean public's ability to visit them continues to be restricted, their future status will have to be reassessed. I appeal to Eritrea to reconsider its position, allowing UNMEE to continue to provide valuable information to the Eritrean population on the work of the United Nations in general and the peace process in particular.

VIII. Financial aspects

27. The General Assembly, by its resolution 57/328 of 18 June 2003, appropriated the amount of $188.4 million, equivalent to $15.7 million per month, for the maintenance of UNMEE for the financial period from 1 July 2003 to 30 June 2004. Should the Security Council decide to extend the mandate of UNMEE beyond 15 September 2003, the cost of maintaining the Mission would be limited to the amount approved by the General Assembly. As at 31 July 2003, unpaid assessed contributions to the special account for UNMEE amounted to $51.9 million. The total outstanding assessed contributions for all peacekeeping operations as at 31 July 2003 amounted to $1,306.3 million.

IX. Observations

28. As already noted in this report, the overall situation in the Temporary Security Zone and the adjacent areas remains generally calm and secure, and the military postures of the two parties indicate that they have no intention of resuming hostilities. Indeed, they have continued to emphasize that they need peace, in order to focus on the challenges they each face domestically. I am encouraged by these

assurances, and commend the two Governments for their continuing commitment to the Algiers Agreements.

29. Incidents at the local level in and around the Temporary Security Zone have become more frequent, however, which is a source of concern. This increase may be a sign of a growing uneasiness among the people living in the border area, resulting from the uncertainties inherent in an un-demarcated border. I therefore urge the two Governments to do their utmost to prevent cross-border incidents before they escalate. Even more important, however, is that they proceed with the expeditious demarcation of the border.

30. Security Council members will recall that, in July, the Boundary Commission, in an addendum to its ninth report, issued a schedule of the order of activities ahead. The first item on that schedule was the appointment of field liaison officers for the remaining demarcation activities. Eritrea has now made these appointments and Ethiopia should do the same without delay. In addition, the schedule called for the commencement late in August of the factual survey of the Tserona and Zalambessa areas as well as the field assessment of pillar sites in Sectors West and Centre. In the absence of Ethiopian field liaison officers, as well as in view of the fact that the Commission's field offices are still awaiting the necessary security assurances from the parties, it has not been possible for the Commission to commence the field surveys. It should be recalled that, in accordance with the schedule, the surveys should be completed in September (Sector Centre) and October (Sector West). Another crucial test of the parties' commitment to the process will come in October, when pillar emplacement is scheduled to begin in Sector East. The importance of the parties' doing everything to enable the Commission to maintain its timetable cannot be overemphasized. I call on the two Governments to provide full cooperation to the Commission and its field offices so that the border can be demarcated as soon as possible.

31. As stated in my previous report, a lasting peace would require a relationship between the parties that enabled them to address, through peaceful discourse, any problems that might arise between them. An important step in that direction would be the initiation of political dialogue between the two Governments, with a view to the eventual normalization of relations. Sadly, in the intervening three months, neither party has made discernible moves towards true neighbourliness. As a result, both sides are left, even now, with a "cold peace" that is not conducive to the benefits — economic, social, cultural and other — that would normally accrue to peoples sharing a long border.

32. The peace process must not be allowed to lose momentum. A great deal of precious time, effort and resources have been invested since the end of the hostilities by the parties themselves, as well as by the international community and key supporters of the peace process. While the final steps of the peace process may be the most difficult, they are also the most important for the future of the two countries and must be taken sooner rather than later. In the same voluntary manner as the two parties created the Boundary Commission and selected its members, they must now accept its decisions and assist it in the expeditious demarcation of the border. At the same time, Ethiopia and Eritrea will have to come to terms with the fact that they are destined by geography to remain neighbours, and that normalization of relations, while difficult, will be to the great benefit of both countries and their peoples.

33. The international community stands ready to assist the two parties through these endeavours. However, as indicated by the Security Council in its presidential statement of 17 July (SPRST/2003/10), the delays in the demarcation process are a source of concern, particularly given the operational cost of UNMEE at a time of growing demands on United Nations peacekeeping, most recently exemplified by developments elsewhere on the African continent. UNMEE was created for limited purposes and was never meant to be a permanent arrangement. The time may be approaching when the parties will have to be more actively assisted in fulfilling both the letter and the spirit of the Algiers Agreements and concluding the process without further delay. Some of the parties' closest friends and allies could play a crucial role in this regard. In the meantime, UNMEE must continue to carry out its essential mandate, which I recommend should be extended for an additional period of six months, until 15 March 2004.

34. During the process of demarcation, the parties will need the full support of the international community, political as well as financial. The drought-induced famine in Ethiopia and Eritrea is taking its toll on populations that were already suffering from the effects of conflict. While it is encouraging to note that both countries are committed to developing longer-term strategies to address the underlying causes of recurring drought and poverty, I again urge donors to continue their generous support for relief assistance programmes. In addition, urgent contributions to the Trust Fund for the Delimitation and Demarcation of the Border will be required.

35. In conclusion, I wish to express my appreciation to my Special Representative, Legwaila Joseph Legwaila, and all the military and civilian personnel of UNMEE for their determined and hard work in support of the parties' efforts towards a lasting peace. I am also grateful for the invaluable contribution of the United Nations country teams and other humanitarian workers working on the ground, the consistent support of interested Member States and the African Union, as well as the resolve and steadfastness of the Boundary Commission.

Annex I

Tenth report on the work of the Eritrea-Ethiopia Boundary Commission

1. This is the tenth report of the Eritrea-Ethiopia Boundary Commission, covering the period from 10 June to 29 August 2003.

2. Following the issuance of its ninth report as an annex to the progress report of the Secretary General on Ethiopia and Eritrea (S/2003/665), the Commission issued a schedule of the order of activities ahead as at 16 July 2003, which was published as an addendum to that report (S/2003/665/Add.1).

3. To the extent possible, demarcation activities are continuing in accordance with that schedule. Following the receipt, on 11 June 2003, of the parties' comments on the Commission's pillar site assessment survey for the Eastern Sector, the Commission instructed the demarcation team to undertake certain additional field work in that sector. The Secretary then prepared marked maps showing, with respect to that sector, the line prescribed in the delimitation decision and the proposed sites of the boundary pillars. These maps were sent to the parties on 21 August 2003. As provided in the Commission's demarcation directions, the parties have 15 days to comment on these maps.

4. Early in July, the United Nations Headquarters Committee on Contracts approved the selection of contractors for boundary pillar emplacement and the as-built survey of boundary pillars for the entire boundary. Upon signature of the contracts, which are currently being negotiated, deployment of staff and shipment of equipment by contractors to the Eastern Sector can begin; actual pillar emplacement is scheduled to commence shortly thereafter.

5. Preparations for pillar emplacement continue in the remaining two sectors. In August, the Commission held internal meetings to resolve certain technical issues relating to the demarcation in those sectors. After considering the parties' comments of 24 January, 15 April and 2 May 2003, the Commission issued instructions to the demarcation team for implementing the plan of work set out in the schedule of the order of activities ahead as at 16 July 2003, including preparation of the factual survey of Tserona and Zalambessa and field assessment of pillar sites in the Central and Western Sectors. Those instructions were communicated to the parties on 22 August.

6. On 17 June 2003, both parties submitted their comments on the Special Consultant's report of 2 June 2003 pursuant to paragraph 15 B of the demarcation directions, dealing with a dispute that had arisen between the parties with respect to their field liaison officers. The Commission's decision on this dispute was communicated to the parties on 7 July, and issued as Security Council document S/2003/752 on 18 July 2003. The decision calls upon the parties to appoint new field liaison officers, and amends the demarcation directions to provide for an exchange of background information concerning field liaison officers. In response, Eritrea notified the Commission on 26 August 2003 of the appointment of its field liaison officers.

7. Late in July, Eritrea approved the establishment of contractors' accommodation and meal facilities at Barentu. Preparations are continuing for the establishment of similar facilities in Adigrat and Assab.

8. Ensuring the security of field office staff and contractors' personnel is essential to the demarcation process. In the light of the imminent deployment of contractors' personnel to the Eastern Sector and the ongoing demarcation activities contemplated by the current schedule in the Western and Central Sectors, the Commission has reminded the parties of their complete and sole responsibility, within the areas under their control, for ensuring the safety of all demarcation personnel. The Commission has specifically requested the Parties to develop — in consultation with the Chief Surveyor — detailed procedures for ensuring the security of all demarcation personnel, including arrangements for communication at all necessary levels (central and local government, interministerial, and local population), and for facilitating the role of UNMEE, as affirmed inter alia by the Security Council in resolution 1466 (2003) of 14 March 2003, in monitoring those activities.

9. In conformity with its mandate, the Commission continues to work to arrange for expeditious demarcation of the boundary between Eritrea and Ethiopia. Despite the Commission's efforts, however, compliance with the timeline set out in the schedule of the order of activities ahead as at 16 July 2003 essentially depends on the unreserved cooperation of the two Governments, including the granting of prompt approvals for flights and site inspections.

(*Signed*) Sir Elihu **Lauterpacht**
President of the Commission

29 August 2003

Annex II

United Nations Mission in Ethiopia and Eritrea: contributions as at 29 August 2003

Country	*Military observers*	*Troops*	*Staff*	*Total*	*National support element*
Algeria	8			8	
Australia			2	2	
Austria	2			2	
Bangladesh	7	168	4	179	
Benin			2	2	
Bosnia and Herzegovina	9			9	
Bulgaria	5		2	7	
Canada					
China	6			6	
Croatia	7			7	
Czech Republic	2			2	
Denmark	4			4	
United Kingdom	1		2	3	1
Finland	7	183	12	202	
France			1	1	
Gambia	4		2	6	
Ghana	11		7	18	
Greece	3			3	
India	7	1 523	19	1 549	
Iran, Islamic Republic of	2			2	
Ireland					
Italy	5	61		66	16
Jordan	7	946	15	968	
Kenya	11	650	11	672	
Malaysia	7		4	11	
Namibia	3		1	4	
Nepal	5			5	
Netherlands					
Nigeria	7		4	11	
Norway	5			5	
Paraguay	2			2	
Peru	2			2	
Poland	6			6	
Romania	8			8	
Russian Federation	6			6	

Country	*Military observers*	*Troops*	*Staff*	*Total*	*National support element*
Singapore					
Slovakia		198	3	196	
Spain	3		2	5	
South Africa	5		5	10	
Sweden	6			6	
Switzerland	4			4	
Tunisia	2		3	5	
Ukraine	7			7	
United Republic of Tanzania	8		3	11	
Uruguay	5	33	3	41	
United States of America	6			7	
Zambia	10		4	14	
Total	**215**	**3 762**	**111**	**4 088**	**17**

United Nations S/2003/859

Security Council

Distr.: General
5 September 2003

Original: English

Letter dated 3 September 2003 from the Permanent Representative of Italy to the United Nations addressed to the Secretary-General

I have the honour to draw your attention to the statement on the Comprehensive Peace Agreement in Liberia issued on 22 August 2003 by the Presidency of the European Union on behalf of the European Union (see annex).

I would be grateful if the text of this letter and its annex could be circulated as a document of the Security Council.

(*Signed*) Marcello **Spatafora**
Permanent Representative of Italy to the United Nations

03-49041 (E) 080903

Annex to the letter dated 3 September 2003 from the Permanent Representative of Italy to the United Nations addressed to the Secretary-General

[Original: English, French and Spanish]

Statement on the Comprehensive Peace Agreement in Liberia by the Presidency of the European Union on behalf of the European Union

The European Union welcomes the Comprehensive Peace Agreement signed in Accra on Monday, 18 August 2003 by the warring parties and the political parties under the aegis of ECOWAS as a fundamental step towards restoring peace, security and stability in Liberia after 14 years of violence and misrule.

The European Union commends ECOWAS, its Chairman, President John Kufour, its Executive Secretary, Mohamed Ibn Chambas, and the Mediator General, Abdusalami Abubakar, for their untiring efforts that have led to the successful outcome. It also commends Nigeria, which played a key role, for swiftly making available troops to be deployed to protect the civilian population and humanitarian relief. It expresses its appreciation to the African States that have announced their participation in the Economic Community of West African States Mission in Liberia (ECOMIL) and to the United States of America for its support of the deployment and activity of said force. In this regard the European Union stresses the importance of completing as soon as possible the deployment of ECOMIL as a vanguard force of the United Nations stabilization force, in accordance with resolution 1497 (2003), and reiterates its readiness to support it.

The European Union calls upon all the parties to the Agreement to implement it in good faith and to establish on 14 October 2003 a transitional Government that will lead the country to free and fair elections in October 2005, thus restoring a fully elected democratic Government.

The European Union calls on Liberia's neighbouring States to desist from any action that might encourage a resumption of tensions or of violent confrontation in the country.

Deeply concerned at the gravity of the humanitarian situation prevailing in Liberia, the European Union expresses its gratitude to humanitarian agencies that operate in favour of the populations in need and calls upon all parties to cooperate fully in this endeavour.

The acceding countries Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia, the associated countries Bulgaria, Romania and Turkey and the EFTA countries Iceland and Liechtenstein, members of the European Economic Area, align themselves with this declaration.

United Nations S/2003/860

Security Council

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5 September 2003

Original: English

Letter dated 5 September 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 6 June 2003 (S/2003/626).

The Counter-Terrorism Committee has received the attached third report from New Zealand submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

03-49213 (E) 250903

Annex

Letter dated 3 September 2003 from the Permanent Representative of New Zealand to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

On behalf of my Government, I have the honour to transmit to the Counter-Terrorism Committee a response to the questions and comments raised by the Committee in your letter of 30 May 2003, regarding the measures taken by New Zealand to implement the provisions of Security Council resolution 1373 (2001) (see enclosure).

My Government remains ready to provide the Committee with any further information that may be required or requested by the Committee.

(*Signed*) Don **MacKay**
Permanent Representative

Enclosure

NEW ZEALAND RESPONSE TO THE QUESTIONS AND COMMENTS OF THE SECURITY COUNCIL COUNTER-TERRORISM COMMITTEE CONTAINED IN THE CHAIRMAN'S LETTER OF 30 MAY 2003

New Zealand is fully committed to combating international terrorism in all its forms and to co-operating with the United Nations, its Member States and particularly with the Counter-Terrorism Committee established by the Security Council pursuant to Resolution 1373 to combat international terrorism.

In December 2001 New Zealand submitted a report to the United Nations Security Council Counter-Terrorism Committee setting out steps New Zealand had taken to implement United Nations Security Council Resolution 1373 (2001). In July 2002 New Zealand presented a supplementary report to the Counter-Terrorism Committee, which provided further information on issues addressed in the first report.

The following information is provided in response to the UN Counter-Terrorism Committee's request for further information resulting from consideration of New Zealand's supplementary report.

Counter-Terrorism Committee question 1.2

The CTC notes from the website www.gplegislation.c.nz (address provided in the supplementary report at page 9) that the Terrorism Suppression Act 2002 commenced on 18 October 2002. Could New Zealand confirm that the Act is now being implemented in New Zealand? Please provide details on the number of designations of terrorist entities that New Zealand has made since the passage of the Terrorism Suppression Act. Please also provide information concerning the length of time required to make a designation under the Terrorism Suppression Act.

The Terrorism Suppression Act 2002 was enacted in October 2002. The legislation provides a statutory mechanism for New Zealand to designate an individual or an organisation as a "terrorist entity". Once the designation is made that entity is subject to a range of sanctions prescribed under the Terrorism Suppression Act. The Act entered into force in October 2002 and has been implemented in New Zealand since that time.

Before the Terrorism Suppression Act was passed, UN Security Council Resolution 1373 (2001) was implemented by regulations made under the United Nations Act 1946 (the United Nations Sanctions (Terrorism and Afghanistan Measures) Regulations 2001). These regulations applied to "specified entities", namely all individuals and entities that were designated for the time being by the 1267 (Afghanistan) Committee. The transitional provisions of the Terrorism Suppression Act provided that all terrorist entities that were "specified entities" for the purposes of the Regulations at the date that the Act came into force were automatically regarded as a terrorist entity that had been designated under section 22 of the Act. This resulted in a total of 219 individuals and organisations being regarded as designated terrorist entities in New Zealand as at 18 October 2002.

As the United Nations subsequently updates its list of terrorist entities, changes made since the Terrorism Suppression Act came into force must now be considered for designation on a case-by-case basis. There is provision for both "interim" and final designations – the procedure, threshold, and duration of the interim and final designations differs. In particular, an interim designation lasts for only 30 days. The Prime Minister, upon application by the Commissioner of Police and after consultation with the Attorney General then issues a final designation. The Prime Minister must have reasonable grounds to believe that the entity in question has knowingly engaged in terrorist acts before any such designation can be issued. In respect of this requirement, the Terrorism Suppression Act provides that information that the United Nations has listed an entity is sufficient grounds, in the absence of contrary evidence, for that entity to be designated.

Since the Terrorism Suppression Act came into force, an additional 32 individuals and organisations have been designated by the Prime Minister as terrorist entities. All the entities designated since the Act took effect in October 2002 appear on the list issued by the United Nations 1267 (1999) Committee.

Designations can be made expeditiously subject to the requirement to prepare relevant documentation for consideration by the Prime Minister. Generally any ongoing additions to the United Nations list are collated on approximately a monthly basis and submitted together for consideration by the Prime Minister. This does not prevent urgent cases being submitted for consideration immediately after they have been listed by the United Nations.

Counter-Terrorism Committee question 1.3

It is stated in the supplementary report (at page 4) that a Terrorism (Counter Terrorism) Bill is being drafted to deal with those parts of the Resolution not dealt with by the Terrorism Suppression Bill. The CTC would appreciate receiving an outline of the salient features of the Bill and its current status.

The Counter Terrorism Bill is currently before Parliament awaiting its second reading. The Bill has recently completed its select committee stage, during which the Foreign Affairs, Defence and Trade Committee heard public submissions on the Bill and recommended some amendments be made. The Bill is expected to be passed, and to come into force, before the end of 2003.

The Bill implements in domestic law the requirements of two international Conventions relating to the Physical Protection of Nuclear Material (1979), and on the Marking of Plastic Explosives for the Purposes of Detection (1991). With the passage of the Bill New Zealand will deposit its instruments of accession to both conventions and will then be fully compliant with all 12 terrorism-related international instruments.

It creates the following new offences designed to deal with terrorist-type activity:

- harbouring or concealing a person knowing that person has carried out, or intends to carry out, terrorist activity;
- causing sickness or disease in animals, intending to cause serious risk to the animal population of New Zealand and major damage to the New Zealand economy, or being reckless as to whether such an outcome occurs;

- contaminating products (food, water, crops) intended for human consumption, intending or being reckless as to whether one of the following results: harm to one or more persons, major economic loss to a person, or major damage to the national economy;

- threatening to do an act that is likely to cause risk to the health or safety of one or more persons, or major property damage, or major economic loss to a person, or major damage to the national economy, or communicating information that is known or believed to be false about one of those outcomes, intending to significantly disrupt the civilian population, or an infrastructure facility, or the administration of government, or commercial interests.

The Bill makes terrorism an aggravating factor for sentencing purposes, and provides that when murder occurs in the course of a "terrorist act" (as defined in section 5 of the Terrorism Suppression Act), there will be a presumption in favour of 17 years' minimum non-parole.

The Bill also gives the New Zealand Customs Service the power to detain property intercepted crossing the border, where there is good cause to suspect that the property is owned or controlled by a designated terrorist entity, or an entity that is eligible for designation under the Terrorism Suppression Act. In the case of already-designated entities, Customs will be able to detain all property intercepted. In the case of entities eligible but not yet designated, the detention power will apply only to cash or cash equivalents (such as precious metals). In both instances, there is a "necessities of life" exception that refers to "cash...necessary to satisfy essential human needs". This is modelled on similar provisions in the Terrorism Suppression Act.

The Bill provides for the following investigative powers that are not terrorism-specific but are deemed necessary to address serious criminal offending in general, including in terrorism:

- the use of tracking devices by Police and Customs officers (subject to safeguards, such as a warrant requirement and reporting obligations);

- a requirement which "may require a specified person to provide information or assistance that is reasonable and necessary to allow the (Police) to access data held in, or accessible from, a computer that is on premises named in the warrant";

- provides that when evidence of a serious criminal offence (such as drug related, serious violent, and terrorist offences) is fortuitously discovered in the course of investigating a different serious offence under an interception warrant (such a warrant allows the interception of oral communications by means of listening devices), evidence of the first offence will be admissible.

The current draft of the Counter Terrorism Bill as proposed to be amended by the select committee can be found on the following website:

www.clerk.parliament.govt.nz/Content/SelectCommitteeReports/27bar2.pdf

Counter-Terrorism Committee question 1.4

The effective implementation of paragraph 1 requires, inter alia, that States have in place or introduce adequate legal and other appropriate measures to register, audit and monitor the collection and use of funds and other economic resources by charities, religious, cultural and other associations with a view to ensuring that they are not diverted to purposes other than their intended purposes in particular to terrorism. It is stated in the supplementary report (at page 5) that the matter is under the consideration by a Working Group on Charities. The CTC would appreciate receiving a progress report in this regard.

In 2001, the New Zealand Treasury appointed a working party to make recommendations to the government on the design of a method of registration, reporting and monitoring of charities. The Working Party released two reports at the start of 2002. In June 2003, the New Zealand Cabinet agreed to the final policy recommendations for the establishment of a new Charities Commission that will be responsible for registering charitable organisations. It is anticipated that the Commission will be operational by mid 2004.

The Charities Commission Bill, when enacted, will create a registry system for charitable organisations. The Commission will assist charitable organisations to achieve compliance with the core regulatory obligations. The Commission will also assist in New Zealand's efforts to comply with FATF Special Recommendation VIII by providing a level of supervision for charitable organisations, making it more difficult for non-profit organisations to be used for channelling money to terrorist organisations.

The Commission will have modest investigatory powers and where its investigations reveal (or there is a complaint) that an organisation has terrorist links, it will refer the case to the Minister of Commerce and to other agencies such as the New Zealand Police and the Inland Revenue Department. The Commission's role will therefore be largely one of coordinating information between responsible agencies. An ongoing function of the Commission will also be to continue to monitor the activities of charities by receiving annual returns.

Counter-Terrorism Committee question 1.5

The CTC would be grateful if it could be provided with a copy of the Interception Capability Bill as soon as it is made available to the public.

As requested, a copy of the Telecommunications (Interception Capability) Bill is attached as Annex A. The Bill was introduced to Parliament earlier in the year and was referred to the Law and Order Select Committee for consideration. The Committee is due to report back to Parliament by November 2003.

Counter-Terrorism Committee question 1.6

The CTC would appreciate having a progress report on New Zealand becoming a party to the Conventions and Protocols against terrorism to which it is yet to be a party.

New Zealand is currently party to ten of the twelve terrorism conventions and protocols, having acceded to the International Convention on the Suppression of

Terrorist Bombings (1997) and ratified the International Convention on the Suppression of the Financing of Terrorism (1999) in November 2002, following the passage of the Terrorism Suppression Act. Earlier this year the Counter Terrorism Bill was introduced to Parliament (please refer to the answer to question 1.3 of this report for more detail on the Bill). Amongst other measures it contains the provisions needed to implement the two terrorism conventions to which New Zealand is not yet party: the Convention on the Physical Protection of Nuclear Material (1979) and the Convention on the Marking of Plastic Explosives for the Purposes of Detection (1991). Once the Bill is passed, New Zealand will be able to deposit its instruments of accession to both Conventions.

Counter-Terrorism Committee question 1.7

The CTC would welcome a progress report on New Zealand's proposed changes to its Customs and Excise Act 1996, Immigration Act 1987, and the Passport Act 1992 as stated in the supplementary report (at page 13).

Amendments have been made to the Immigration Act 1987 pursuant to the Immigration Amendment Act of 2002 in order to implement the United Nations Convention against Transnational Organised Crime and the associated Protocols on Migrant Smuggling and the Trafficking of Persons. The relevant provisions in the amendment act came into force on 18 June 2002.

Section 126 of the 1987 Act, as now amended, provides that people who arrive at other than designated New Zealand Customs ports of entry must now report "forthwith" to an immigration officer (they had previously been given 72 hours in which to report). Where there is good cause to suspect that a person will not or has not reported "forthwith", a police officer may now arrest that person and bring them to an immigration officer.

The Immigration Act has also been amended so that the 72-hour period during which a person arriving in New Zealand may be refused entry, detained or turned around now begins when the person first reports to an immigration officer and not from the time of their arrival. This means that people who evade border control will no longer be able to trigger the right of appeal against removal to the independent Removal Review Authority by evading an immigration officer for 72 hours after arrival.

Through the vehicle of the Transnational Organised Crime Bill in 2002 an amendment was also made to the Immigration Act which provides police and customs officers with the power to board and search a vessel in the contiguous zone where persons on board are believed to be committing an offence against the Immigration Act or of being in New Zealand unlawfully (should they land in New Zealand). At the same time the Customs and Excise Act 1996 was amended extending the power of customs officers to detain vessels suspected of involvement in offence of migrant smuggling under section 98C of the Crimes Act 1961. The ability to direct and detain vessels in those circumstances applies to vessels in the contiguous zone.

The same Transnational Organised Crime Bill also created a new power in the Immigration Act for the New Zealand Police to arrest a person arriving from overseas at other than a Customs port of entry. Section 174 of the Customs and Excise Act 1996 was also amended in 2002 to enable customs officers to arrest

without warrant a person found on a vessel who is suspected of committing an imprisonable offence against the Customs and Excise Act or to be involved in the offence of migrant smuggling under section 98C Crimes Act.

The New Zealand Passports Act 1992 provides for the issue, renewal and cancellation of passports, certificates of identity and emergency travel documents. It also provides a right of appeal in cases where an applicant for any travel document is dissatisfied with a decision made in relation to his or her application, and specifies a range of travel document offences and penalties. For the most part the Act does not prescribe the form or content of travel documents and is silent about operational process.

The United Nations Protocol Against the Smuggling of Migrants by Land, Sea and Air which supplements the United Nations Convention against Transnational Organised Crime, requires signatories to ensure the security and integrity of their travel documents, have particular offences relating to travel document fraud, and take measures necessary to prevent the unlawful creation, issue and use of these documents. In addition, United Nations Security Council Resolution 1373 (2001) requires nations to "prevent the movement of terrorists through measures preventing counterfeiting, forgery or fraudulent use of travel documents". The Passports Amendment Act 2002 enables New Zealand to meet these requirements.

The amendments introduced extra-territorial jurisdiction for a range of Passports Act offences relating to people smuggling and associated criminal activities. Section 31A provides that proceedings may be brought where such offences are alleged, even if they did not occur in New Zealand.

Offences relating to travel documents are set out in sections 29A-32 of the Act. The 2002 amendments created new offences relating to the forgery and falsification of New Zealand travel documents, the distribution and disposal of falsified and forged travel documents, misuse of passport database information and the improper issue of travel documents.

Article 6(2)(b) of the Protocol requires signatories to make it an offence to be an accomplice to travel document offences, but no new offence was necessary for the prosecution of people who assist in the commission of a Passports Act offence. Under section 66 of the New Zealand Crimes Act 1961, anyone who aids or abets any person in the commission of an offence is guilty of the offence. The seriousness of many travel document offences is reflected in new maximum penalties of a term of imprisonment of up to ten years and/or a fine of up to $NZ250,000. These amendments bring the Passports Act penalties in line with those under the Crimes Act (using a forged document carries a maximum penalty of 10 years imprisonment under section 266 of the Crimes Act).

The Act now provides that a sentencing Judge may make an order preventing a person convicted of an offence against the Passports Act from obtaining a New Zealand passport for up to 10 years from the date of conviction. The purpose of this provision is to prevent further abuses of New Zealand passports rather than to prevent a person's departure from New Zealand (to do that would risk breaching the New Zealand Bill of Rights Act 1990). Any person subject to such an order could still travel on another country's passport if he or she were a dual national, or apply for an emergency travel document (which would not be valued on the black market

as it is journey-specific, in any event, and would attract the attention of Customs Officials).

Section 20 of the Act has also been amended to provide for the Minister to recall a certificate of identity in cases where the holder has been issued with a passport. This reduces the likelihood of a person possessing two usable New Zealand travel documents at the same time.

Counter-Terrorism Committee question 1.8

The CTC is aware that New Zealand may have covered some or all the points in the preceding paragraphs in reports or questionnaires submitted to other organisations involved in monitoring international standards. The CTC would appreciate receiving a copy of any such report or questionnaire as part of New Zealand's response to these matters as well as details of any efforts to implement international best practice, codes and standards which are relevant to the implementation of Resolution 1373.

Attached as Annex B is a copy of New Zealand's report to the United Nations Security Council 1267 (1999) Committee under United Nations Security Council Resolution 1455 (2003), submitted in May 2003.

Counter-Terrorism Committee question 2.1

The CTC is eager to facilitate the provision of assistance and advice in connection with the implementation of the Resolution. The Committee would encourage New Zealand to let it know if there are areas in which assistance or advice might be of benefit to New Zealand in its implementation of the Resolution or of any areas in which New Zealand might be in a position to offer assistance or advice to other States on the implementation of the Resolution.

No assistance is required for New Zealand. Please refer to the following reply (question 2.4) for detail on New Zealand's efforts to assist other States in their implementation of UN Security Council Resolution 1373 (2001).

Counter-Terrorism Committee question 2.4

The CTC notes that there is no mention in the reports submitted by New Zealand on areas where it might be able to provide assistance to other States in connection with the implementation of the Resolution.

New Zealand is working (along with other donors) to assist Pacific Island Countries to implement their commitments to support the international counter terrorism effort. This assistance is focussed on developing model counter terrorism legislation for the Pacific region. The model provisions cover obligations in Security Council Resolution 1373, all 12 counter-terrorism conventions and protocols, and the UN Convention against Transnational Crime and its Protocols on Migrant Smuggling and People Trafficking. An Expert Working Group with representatives from a range of Pacific countries and organisations and assisted by a New Zealand and an Australian drafter, is developing the model provisions. Once they are finalised, the New Zealand and Australian drafters will be available to provide in-country drafting assistance, as requested, to enable individual Pacific Island countries to adapt the model provisions to fit their needs and legislative framework.

New Zealand has also recently established a $2 million Pacific Security Fund designed to meet the costs of advisory, training and technical support for Pacific Island countries in responding to security threats. The fund will be used to support security initiatives, including counter terrorism capacity building in the region. This is in addition to ongoing support to the region through NZAID programmes and funding from government agencies budgets. Use of the fund will be determined using whole-of-government coordination in assessing and prioritizing security risks in the Pacific.

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Original: English

Letter dated 5 September 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 4 October 2002 (S/2002/1161).

The Counter-Terrorism Committee has received the attached supplementary report from Papua New Guinea submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Note verbale dated 3 September 2003 from the Permanent Mission of Papua New Guinea to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Mission of Papua New Guinea to the United Nations presents its compliments to the Chairman of the Counter-Terrorism Committee and has the honour to attach the Papua New Guinea Government's second report on counter-terrorism (see enclosure).

Enclosure

Second report of Papua New Guinea to the Counter-Terrorism Committee

Paragraph 1

The National Executive Council (NEC) approved for Papua New Guinea to accede to the seven (7) Conventions and two (2) Protocols relating to international terrorism on 13 March 2003; The seven (7) International Conventions and two (2) Protocols were then tabled in the National Parliament in accordance with the National Constitution requirements. The National Parliament has approved for Papua New Guinea to accept in its own right the seven (7) International Conventions and two (2) Protocols relating to international terrorism.

Instruments of Accession are being prepared for dispatch to the United Nations for deposit with the Secretary-General of the United Nations.

This paves the way for Papua New Guinea to enact enabling legislation to implement the provisions of the International Conventions and two (2) Protocols. This includes the International Convention for the Suppressions of Terrorist Financing (1999).

Current legislations, such as the Banks and Financial Institutions Act, Central Banking Act, Securities Act, Securities Regulations or the Criminal Code Act may be looked at to ascertain the relevance to terrorist funding activities. Where amendments are required, this will be specifically addressed in the affected legislation.

The functions of the Central Bank under Financial Institutions Act, among other things, is to suppress or aid in suppressing illegal, dishonourable or improper practices of authorised institutions. *See Section 5c of the Banks and Financial Institutions Act No. 2 of 2000.* The Banks and Financial Institutions Act, however, do not define what constitutes an illegal act or practice. That issue may be addressed in review of the legislation so that terrorist financing is considered the ambit of that legislation by defining an illegal practice to also include terrorist financing.

Part IV of the Banks and Financial Institutions Act provides for Information and Investigations. See Sections 28 -35 of the Act, which requires financial institutions and authorized natural persons to report on specified information. Ordinary and suspicious transaction may be picked up and referred to the persons-in-charge or to the Central Bank or to the Police where fraudulent transactions are detected.

Authorised officers can commit offence under the Act by refusing to provide, omitting or destructing the provision of information. However, (see Section 29 (11), 31(9), 32(5), it seems that nothing in this Act shall compel the

penalties, see Section 54 and Schedule 5. That provides for either fine or imprisonment.

In the proposed Proceeds of Crime Bill, money laundering is a crime. Obligations of financial institutions to retail essential customer generated financial documents will be retained for a specific period, including transmission of funds between Papua New Guinea and a foreign country. The communication of information by financial institution to Police if requested is also provided.

It cannot be established at this stage if funds collected are for religious, charitable or cultural purposes are diverted for other purposes, particularly for financing of terrorism. Papua New Guinea is a Christian country and most churches do not support violence in any form. As to practical controls or measures, that is unclear and maybe something for our government to consider in this review.

The Central Banking Act including the Banks and Financial Institutions Act provide for all financial regulations in Papua New Guinea. It cannot be established if Papua New Guinea has an alternative remittance system or systems similar to a kind known as Hawala.

Subparagraph 2 (a)

It cannot be established if individuals or entities in Papua New Guinea solicit funds from abroad for terrorist activities; however, certain money schemes have actually surfaced in Papua New Guinea. The Central Bank has publicly condemned their operations on the basis that these schemes contravene the Banks and Financial Institutions Act.

The Governments through bilateral assistance form Australia is taking certain initiatives. A Technical Adviser has been assigned to Department of Attorney General to work on the following legislations:

- Proceeds of Crime Bill;
- Mutual Assistance in Criminal Matters;
- Amendments to Extradition Act.

Money laundering is a crime pursuant to the proposed Proceeds of Crime Bill. Obligations of financial institutions, to retain essential customer generated financial documents, will be retained for a specific period, including transmission of funds between Papua New Guinea and a foreign country. The communication of information by financial institutions to Police if requested is also provided for.

Under the Central Banking Act, the Foreign Exchange Regulation regulates foreign transactions of certain amounts of money to be brought in or out of Papua New Guinea. That in itself is a preventive measure and may raise suspicion it transactions exceeded the required amounts. Specific amendments may be required to the Criminal Cod Act, which essentially

makes terrorist acts criminal offences. Thus, collection of funds, recruiting or soliciting of funds from other countries may be in-built to the Criminal Code Act to be criminal offences.

Subparagraph 2(b)

The National Intelligence Organization (NIO) is charged with this under the national Intelligence Organization Act. NIO is in the process of submitting a Plan of Action to counter-terrorism and other transnational crimes.

Plan of Action will focus on coordination and sharing of intelligence.

The strategy is determined by the National Security Advisory Committee (NSAC), which includes all Heads of Departments or all Line Agencies involved in counter-terrorism.

Information which is provided by NIO or any other Line Agencies to the Chief Secretary to Government who is the Chairman of the NSAC, who then advises the Prime Minister, who is the Chairman of the National Security council (NSC) and the national Executive Council (NEC). The Chairman then requests for urgent meetings of the National Security Advisory Committee to be convened.

Subparagraph 2 (c)

The National Intelligence Organization has proposed appropriate legislation to be enacted to deal with contingencies and has maintained regular liaison with its counterpart organizations in the region to assist with this exercise.

Subparagraph 2 (d)

The proposed Mutual Assistance in Criminal Matters may provide for seeking assistance in criminal matters, namely to prevent the use of Papua New Guinea for terrorist acts outside of Papua New Guinea. Schedule 1 of the Extradition Act covers general terrorist acts such as assault onboard ship or aircraft with intent to destroy life or grievous bodily harm; and unlawful seizure of or unlawful exercise, of an aircraft by force or threat of force by any form of intimidation are extraditable offenses. See also Aircraft (Operators Liability Act).

Furthermore, there may be an offence of this nature under an international agreement to which both Papua New Guinea and the Treaty State are parties and which is designated under that international agreement as an offence for which extradition may be requested.

In any case, the Criminal Code Act may address this issue if further amendments are required.

Subparagraph 2 (e)

In the event criminal activities are committed outside of Papua New Guinea, the courts in Papua New Guinea cannot prosecute these acts for want' lack of jurisdiction. Likewise, a foreign national who resides in Papua New Guinea had committed criminal offences outside of Papua New Guinea cannot be prosecuted in Papua New Guinea for lack/ want of jurisdiction.

The only exceptions may be in the instance where Extradition Orders or Mutual Assistance in Criminal Matters have been requested through reciprocal arrangements. This may be addressed in the reviews alluded to earlier.

Subparagraph 2 (f)

At this point in time, Papua New Guinea is not a party to any bilateral or multilateral treaties on Mutual Assistance in Criminal matters. The technical Adviser will enact draft legislation on Mutual Assistance in Criminal Matters in due course.

In terms of extradition, Papua New Guinea has an Extradition Act. But Papua New Guinea is not a party to the current UN Convention on Extradition. The proposed review that is being contemplated will address some changes to modernize extradition process to conform to the international standards.

The Extradition Act provides for the extradition of fugitives to and from the Commonwealth countries and foreign States (other than Commonwealth States). The Commonwealth has a number of informal schemes in place on extradition and mutual assistance in criminal matters for its member States of which that the Extradition Act currently implements.

Nevertheless, certain bilateral extradition treaties exist, which were recognised on independence. There were treaties Australia entered into when Papua New Guinea was a colony of Australia. Some of these treaties will be reviewed because of the remoteness of Papua New Guinea nationals traveling to these countries and vice versa. These treaties may be replaced by a regulation that so provides that the Extradition Act ceases to apply in relation to a particular foreign state. In the absence of such a regulation, the treaty States recognized on independence still exist. The following are the treaty States found in Schedule 2 of the Extradition Act:-

- Austria
- Belgium
- Chile
- Czechoslovakia
- Ecuador
- Greece
- Guatemala
- Hungary

- Iceland
- Iraq
- Luxembourg
- Monaco
- Nicaragua
- Paraguay
- Poland
- Portugal
- Switzerland
- United States of America
- Uruguay
- Yugoslavia

The Designated (Commonwealth Countries) Regulation specifies the Commonwealth countries for purposes of the Extradition Act. These are:-

- Australia
- Bahamas
- Bangladesh
- Barbados
- Belize
- Botswana
- Canada
- Cyprus
- Dominica
- Fiji
- The Gambia
- Ghana
- India
- Jamaica
- Kenya
- Kiribati
- Lesotho
- Malawi
- Malaysia
- Malta
- Mauritius
- Nauru
- New Zealand
- Nigeria
- Seychelles
- Sierra Leone
- Singapore
- Solomon Islands
- Sri Lanka
- Swaziland
- Tanzania
- Tonga
- Trinidad and Tobago
- Tuvalu

- Uganda
- United Kingdom
- Western Samoa
- Zambia
- Zimbabwe

There is no timeframe set down for request for judicial assistance in criminal investigations or proceedings. In criminal cases, there is not time bar or limit as opposed to civil proceeding in Papua New Guinea.

In practice, the time it takes to complete a request depends on the nature of the case and how the investigations are being conducted. That determines basically the outcome of the timeframe. On average, it may take up to six (6) months at the most.

Subparagraph 2 (g)

Inter-agency coordination does exist to some extent with regard to Narcotics. Different Agencies deal with narcotics in Papua New Guinea. The Police, Customs, Health, Immigration, and National Surveillance Centre. The Narcotics Contol Board, which is an integrated body, is the agency responsible for policy, rehabilitation and awareness issues.

In two (2) of our border Provinces where Papua New Guinea share international maritime and land boundaries, we have established "Centre-points" where representatives of Line Agencies are housed under one roof to monitor and share intelligence information on movement of troops, rebel elements, illegal activities such as drug trafficking, gun-running, human smuggling as well as border controls.

NIO also have "travel intelligence officers" at key international points of entry and they liaise or operate closely with other authorities such as Immigration, Customs, Quarantine and Police.

Financial tracking is not in a developed state. This is an area that PNG needs technical assistance and training for our nationals in the respective authorities that would deal with these issues. For instance, Banks, Financial Institutions, Stock Exchange and Customs/ Tax officials would require further training.

In terms of security in relation to movement of terrorists, the National Security Advisory Council, an integrated body, regulates all security measures in Papua New Guinea. This body would have access to information on terrorists through their own contacts or networks in the region.

Counterfeiting, forgery or fraudulent use of identity papers and travel documents are criminal offences in nature and may essentially come within the ambit of the Criminal Code Act. The Passports Act and the Migration Act may cover certain aspects of fraudulent identity or travel documents. These

issues may be strengthened in the current reviews to the Migration laws currently underway in Papua New Guinea.

Subparagraph 3 (a) (b) (c)

The Papua New Guinea Counter-Terrorism Committee on direction from the National Security Advisory Council would be institutional mechanism to deal with all security measures dealing with terrorists.

There is measure already in the region that deal with law enforcement issues at the South Pacific Forum level. Papua New Guinea is a signatory to the Honiara Declaration on Law Enforcement. The essence of this Declaration is to keep the South Pacific Region free from criminal activities. Individual States are required to enact or amend legislation to implement the Honiara Declaration, such as the Proceeds of Crime Bill, Mutual Assistance in Criminal Matters and Extradition Act. Other issues may be taken up as situations unfold with developments of terrorism become critical.

Subparagraph 3 (c)

The application for the Extradition Act is given effect to by the existence of bilateral treaties. No new bilateral treaties exist except for the list of countries to which Australia concluded treaties with, which continued in operation for Papua New Guinea on Independence. This is found in Schedule 2 of the Act. The Designated Commonwealth Countries are also provided in the legislation. The information Commonwealth schemes on extradition, mutual assistance in criminal matters, etc., are implemented pursuant to the Act.

Currently Papua New Guinea and Indonesia are in the process of negotiating a Bilateral Extradition Act. This followed a Government (NEC) Decision two (2) years ago to initiate discussions with neighbours in the region.

Subparagraph 3 (d) and (e)

At the time of writing, the Submission on accession to the sever (7) International Conventions and two (2) Protocols relating to terrorism have been submitted to NEC for its considerations and approval. Thereafter it requires formal Parliamentary approval to accede to the Convention. Enacting legislation to implement these International Conventions and two (2) Protocols would require concerted effort by all affected agencies. Respective agencies administering the relevant Conventions would be responsible for the enactment or amendment of legislation.

Subparagraph 3 (e)

This has not been done yet. Review to the Extradition Act would address the issue of including offences set forth in the relevant Conventions as extraditable offences, including relevant bilateral treaties tow which Papua New Guinea is a party. This may be rose in the purported bilateral

extradition treaty with Indonesia, although a sensitive issued probably with Indonesia.

Subparagraph 3 (f)

Papua New Guinea is party to the 1951 UN Convention on the Status of Refugees and the 1967 Protocol. Although there is no domestic law in place, the convention is the binding to Papua New Guinea pursuant to the Vienna Treaty on Law of Treaties on the basis that the absence of domestic law cannot be used as basis for non-application of the Convention,

According to the Refugee Convention, refugee status will not be granted if an asylum seeker has a criminal record or involved in criminal activities or threat to national security.

Terrorist activities are criminal in nature; hence, Papua New Guinea is bound to refuse refugee status for national security reasons.

Subparagraph 3 (g)

Under the scheme of the Extradition Act request for extradition is satisfied if the extraditable offence is an offence of the sending State as well as the requesting State and attracts a penalty of two (2) years or more in imprisonment.

See Section 1 (4) of Extradition Act. For purposes of the Extradition Act, an offence against the law of a foreign State or Designated Commonwealth Country may be regarded as being an offence of a political character notwithstanding that there are no competing political parties in that State of country.

Paragraph 4

There is move now by Narcotics Control Board to review legislation on illicit drugs and drug trafficking. The Draft Proceeds of Crime Bills creates the offence of money laundering. The illegal arms trafficking to Papua New Guinea has always been a concern to Papua New Guinea. The Firearms Act has strict provisions on licensing of firearms.

The illegal movement of nuclear, chemical and biological and other potentially deadly materials would be of equal concern to Papua New Guinea. The transport of these harmful substances into Papua New Guinea cannot be affected unless appropriate authorities have been notified.

Papua New Guinea is a party to a number of International Environmental Conventions such as the Basel Convention and the Waigani Convention on the trans boundary movement of hazardous wastes, including the Convention on Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade. The application for the Environmental

Contaminants Act is relevant to consider. This is a potentially dangerous activity both in terms of the environment and to national security.

Submitted for your attention and appropriate action.